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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,048	12/01/2003	Malin E. Holcomb	100993.00005	2976

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EXAMINER


EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/725,048	Applicant(s) HOLCOMB ET AL. 	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/01/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 7 and 9 are objected to because of the following informalities:
 - a. claim 7, line 2, "attached the shell" should read --attached to the shell--;
 - b. claim 9, lines 1-2, "back panel of the shell comprises central portion" should read --the back panel of the shell comprises a central portion--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,257,664 B1 to Chew et al.

Chew et al. disclose a seat back that includes all the limitations recited in claims 1, 5, and 7-11. Chew et al. show a seat back having a shell 15 (Fig. 1) that is rigid and curved, a back panel 20 (Fig. 3) of the shell that includes first and second lateral sides (Fig. 2) that extend forward, a first wing 19 (Fig. 3) fastened in an adjustable first position to the first lateral side, a second wing 19 (Fig. 3) fastened in an adjustable second position to the second lateral side, a cushion attached to the shell with a

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conformable body of resilient foam material (see column 3, lines 56-59), a fastener arrangement (Fig. 5) to attach the shell to a frame, and a plurality of fasteners 17 (Fig. 5) of the fastener arrangement that each has a bracket 26 (Fig. 5) attached to the shell, a separate hook portion 35 (Fig. 5) with an aperture, threaded fasteners (Fig. 5) passing through the shell and a slot 28 (Fig. 5) of the bracket wherein the fasteners adjust along two axes.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 6, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chew et al. in view of U.S. Patent No. 5,370,444 to Stulik.

Chew et al. disclose a seat back that is basically the same as that recited in claims 2-4, 6, and 12-22 except that the cushion lacks a specified central portion, pleated first and second lateral sections, and a cover, as recited in the claims. Stulik discloses a cushion similar to that of Chew et al. wherein the cushion 10 (Fig. 1) is attached to a shell 30,32 (Fig. 2) with a body (Fig. 1) that includes a central section 12a (Fig. 1), a lateral section 12b,12c (Fig. 2), first and second surfaces (Fig. 2) of the body with first and second plurality of interleaving grooves 21 (Fig. 2) forming pleats, and a cover 11 (Fig. 2) of stretchable material encasing the body and having an element 30e

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(Fig. 2) connecting the cushion to the shell. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat back of Chew et al. such that the cushion has a central section adjacent the back panel of the shell, a first lateral section adjacent the first wing, a second lateral section adjacent the second wing, a first surface of the body with a first plurality of grooves extending vertically, a second surface of the body with a second plurality of grooves interleaved with the first grooves forming pleats enabling the body to stretch and conform with changes in the positions of the first and second wings, and a cover encasing the body and including an element attaching the cushion to the shell, such as the cushion disclosed in Stulik. One would have been motivated to make such a modification in view of the suggestion in Stulik that the cushion configuration allows for adjustability without requiring extensive cutting and sewing of parts.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seat backs:

U.S. Pat. No. 2,619,157 to Guyton et al. U.S. Pat. No. 3,583,762 To Strien

U.S. Pat. No. 4,793,652 to Hannah et al. U.S. Pat. No. 5,062,677 to Jay et al.


U.S. Pat. No. 5,593,211 to Jay et al. U.S. Pat. No. 5,944,385 to Pearce

U.S. Pat. No. 6,460,933 B1 to Bors et al. U.S. Pat. No. 6,601,918 B2 to Mattson

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JE
October 6, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600